

UNITED STATES NUCLEAR REGULATORY COMMISSION
DRAFT ENVIRONMENTAL ASSESSMENT
AND
FINDING OF NO SIGNIFICANT IMPACT
FOR AN AMENDMENT TO
10 CFR PARTS 30, 40, 50, 60, 61, 63, 70, 71, 72, and 76
EMPLOYEE PROTECTION REGULATIONS:
CLARIFICATION OF NRC CIVIL PENALTY AUTHORITY
RIN 3150-AH59

The U.S. Nuclear Regulatory Commission (NRC) is evaluating the environmental impacts of an amendment to its regulations in 10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 71, 72, and 76. Therefore, as required by 10 CFR 51.21, the NRC is performing this environmental assessment review and documenting its finding of no significant impact.

ENVIRONMENTAL ASSESSMENT

Identification of the Proposed Action:

The proposed action would amend the NRC's employee protection requirements in 10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 71, 72, and 76 to allow the Commission to impose civil penalties upon non-licensee contractors and subcontractors of a Commission licensee, or applicant for a Commission license, who violate the Commission's employee protection regulations by discriminating against employees for engaging in protected activities. In addition, 10 CFR Part 76 is being amended, to make it consistent with the other NRC employee protection requirements, to provide that the Commission may impose a civil penalty on the

United States Enrichment Corporation (Corporation), as well as a contractor or subcontractor of the Corporation.

The Need for the Proposed Action:

The employee protection requirements in 10 CFR Parts 30, 40, 50, 60, 61, 63, 70, 71, 72, and 76 prohibit Commission licensees, applicants for a Commission license, holder of or applicant for a Certificate of Compliance (CoC), the Corporation, or contractor or subcontractor of these entities from discriminating against their employees for engaging in protected activities. The NRC, to effectively fulfill its mandate, requires complete, factual, and current information concerning the regulated activities of its licensees. Employees of contractors and subcontractors and the United States Enrichment Corporation are an important source of such information. The NRC's policy is to hold its licensees responsible for compliance with NRC requirements, even if licensees use contractors for products or services related to licensed activities. Although the employee protection regulations prohibit discrimination by a contractor or subcontractor, these regulations do not explicitly provide for imposition of a civil penalty on a contractor or subcontractor. The proposed amendments would clearly allow the NRC to impose a civil penalty on a contractor or a subcontractor of licensees, applicants, or the United States Enrichment Corporation for violating the NRC's employee protection requirements.

Environmental Impacts of Proposed Action:

The proposed amendments would clarify that a civil penalty may be imposed on contractors, subcontractors, and the United States Enrichment Corporation, for a violation of the NRC employee protection requirements. The actions that would involve violations or subsequent enforcement of the employee protection requirements are procedural in nature and will not change the processes or manufacturing procedures or alter the release of effluents to the environment. Therefore, the proposed change will change neither the permissible environmental impacts from licensed activities, nor have a direct or reasonably foreseeable

indirect effect on the water, land, or air.

The NRC staff has determined that Section 7, consultation of the Endangered Species Act, is not required, because the proposed action is administrative and procedural in nature and will not affect listed species or critical habitat. Likewise, the NRC staff has determined that the proposed action is not the type of action that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

Environmental Impacts of the Alternatives to the Proposed Action:

As an alternative to the proposed action, the staff considered taking no action, which would leave in place the current regulations without change (i.e., the “no action alternative”). If the employee protection requirements are left unchanged, there would be no change in the current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar. The proposed action is preferred because it clarifies the NRC’s authority to impose a civil penalty directly on contractors or subcontractors who violate the NRC’s employee protection regulations and will serve the dual objectives of deterring contractors and subcontractors from violating the NRC’s employee protection regulations and allowing employees to raise regulatory and safety concerns without fear of retaliation.

Alternative Use of Resources:

There are no irreversible commitments of resources determined in this assessment.

Agencies and Persons Consulted:

No agencies or persons outside the NRC were consulted in connection with the preparation of this draft Environmental Assessment. The NRC has sent a copy of the draft environmental assessment and the proposed rule to every State Liaison Officer and requested their comments on the Environmental Assessment.

Finding of No Significant Impact:

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that the proposed amendments are not a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required. The proposed amendments would establish a civil penalty as a possible sanction for contractors or subcontractors who violate the NRC employee protection requirements and would make the employee protection requirements in 10 CFR Part 76 consistent with the other NRC employee protection requirements. The proposed amendments are procedural in nature and would have no significant impact on the environment.

The determination of this environmental assessment is that there will be no significant impact to the public from this action. However, the general public should note that the NRC welcomes public participation. Comments on any aspect of the environmental assessment may be submitted to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Rulemakings and Adjudications Staff.